REMARKS

Applicant respectfully requests reconsideration of the subject application in light of these remarks and the amendments detailed above. Claims 1, 23, 32, and 33 have been amended. As a result, claims 1-36 remain pending and are provided above for the Examiner's ease of reference.

Claim Objections

Claims 1, 4, 6, 8, 13, 16, 21, 23, 25, 26, 27, 32, 33, and 35 are objected to because "the phrase 'digital good' appears to be inconsistent with the phrase 'digital goods' in the specification." The Office Action indicates no further details regarding these objections. Both terms "digital good" and "digital goods" are utilized consistently in the specification (see, e.g., line 10 of page 4 and line 6 of page 1, respectively). If a second Office Action is to be issued, the applicant respectfully requests clarification of these objections to enable the applicant to properly respond to any such objections.

Claim Rejections

Claims 8, 12, and 17 stand rejected under 35 U.S.C. §102(b) over Yorke-Smith (U.S. Patent No. 5,548,648). Claims 1-7 stand rejected under 35 U.S.C. §103(a) over Leppek (U.S. Patent No. 5,933,501) in view of Sung et al. (U.S. Patent No. 5,768,372, hereinafter "Sung"). Claims 9 and 15-16 stand rejected under 35 U.S.C. §103(a) over Yorke-Smith. Claims 10-11, 23-26, and 32 stand rejected under 35 U.S.C. §103(a) over Yorke-Smith in view of Sung. Claims 13-14, 18-22, 27-28, 31, 33, and 36 stand rejected under 35 U.S.C. §103(a) over Yorke-Smith in view of

Gutowitz (U.S. Patent No. 5,365,589). Claims 29-30 and 34-35 stand rejected under 35 U.S.C. §103(a) over Yorke-Smith and Gutowitz and further in view of Sung.

Each of these rejections will be responded to below in the same order as outlined in the outstanding Office Action, after seasonably traversing the rejections over allegedly "well-known" art.

Rejections Over Alleged Well-Known Art

The Office Action rejects a number of the pending claims (e.g., claims 5, 6, 9, 15-16, 24, and 25) in view of allegedly well-known art. The applicant hereby seasonably traverses these rejections and kindly requests the Examiner to provide a reference in support of these assertions, or to otherwise withdraw the rejections.

Pursuant to M.P.E.P. §2144.03, if the applicant traverses such an assertion, the examiner should cite a reference in support of his or her position. If the Examiner is basing the well-known facts on the Examiner's personal knowledge, the applicant hereby kindly calls upon the Examiner to set forth the facts in an Examiner's affidavit, or to otherwise withdraw the rejections. When a rejection is based on facts within the personal knowledge of the Examiner, the data should be stated as specifically as possible, and the facts must be supported, when called for by the applicant, by an affidavit from the Examiner (see, e.g., M.P.E.P. §2144.03; 37 C.F.R. §1.104(d)(2)).

LEE & HAYES, PLLC   13   ATTORNEY DOCKET NO. MS1-515US
RESPONSE TO OFFICE ACTION DATED DECEMBER 23, 2003   Serial No. 09/536,033

PAGE 14/20 * RCVD AT 3/23/2004 6:29:27 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:3035390271 * DURATION (mm-ss):04-58

Claims 8, 12, and 17

The outstanding Office Action states that "selecting multiple segments from the plurality of segments" is shown by Yorke-Smith at col. 1, lines 53-55. The cited portion of Yorke-Smith, however, appears to discuss selection of "encryption functions" rather than "segments" such as recited in part by claim 8. Accordingly, in an implementation (e.g., as set forth by claim 8), not all segments need to be transformed (i.e., the selected segments are transformed). This is wholly different from Yorke-Smith's specific requirement to encrypt "each data segment" (see, e.g., col. 1, lines 51-52). According, claim 8 should be allowable over Yorke-Smith for at least these reasons. Additionally, claims 9-17 which depend from claim 8 should be allowable for at least similar reasons, as well as the additional recitations they contain.

For example, claim 9 in part recites "at least two of the segments overlap one another." Yorke-Smith fails to teach this recitation and, as a result, claim 9 is further distinguishable over Yorke-Smith. Therefore, claim 9 is in condition for allowance for at least this additional reason, as well as those discussed with reference to its respective independent claim 8.

Claims 1-7

It is respectfully submitted that Leppek and Sung, alone or in combination, fail to teach, disclose, or suggest the claimed combination of features such as set forth in the amended claim 1. In particular, claim 1 as amended in part recites "randomly applying various forms of protection to a plurality of segments of the original digital good to produce a protected digital good, wherein at least two of the

segments <u>overlap</u> one another" (emphasis added; also, see, e.g., the remarks below with respect to claim 9 and overlapping segments). None of the cited art appears to teach, disclose, or suggest the claimed combination of features such as set forth in claim 1. Accordingly, claim 1 is in condition for allowance. Also, claims 2-7 which depend from claim 1 are allowable for at least similar reasons, as well as the additional recitations they contain.

Furthermore, with respect to claim 2, the outstanding Office Action states that Sung discloses "pseudo randomly applying the various forms of protection according to pseudo random techniques (see Sung, col. 4, lines 20-30)." The cited portion of Sung, however, discusses "encryption" with "pseudo-random sequencing," rather than the claimed "pseudo randomly applying the <u>various forms of protection</u>" (emphasis added). It is respectfully submitted that when Sung discusses "pseudo-random sequencing," he appears to be discussing encryption rather than choosing forms of protection (such as different encryption techniques). Accordingly, claim 2 is distinguishable over the cited art and should be in condition for allowance.

Claims 9 and 15-16

As discussed above with reference to claim 8 and the rejections over allegedly well-known art, dependent claims 9 and 15-16 should be allowable for at least similar reasons.

Additionally, with respect to claim 9, the Office Action states that segment overlapping overcomes data loss (i.e., through redundancy). It is respectfully submitted that the Office has clearly made assumptions which may not be applicable

in all situations. For example, the attention of the Office is respectfully drawn to the second full paragraph of page 15 of the present specification, which discusses applying multiple forms of protection to a same (overlapping) portion of the data or instructions. Accordingly, it is respectfully submitted that claim 9 is in condition for allowance.

Claims 10-11, 23-26, and 32

As discussed above with reference to claim 8, dependent claims 10-12 should be allowable for at least similar reasons as claim 8.

It is respectfully submitted that Yorke-Smith and Sung, alone or in combination, fail to teach, disclose, or suggest the claimed combination of features such as set forth in the amended claim 23. In particular, claim 23 as amended in part recites the production server being configured to "apply protection tools selected from the set of protection tools to <u>selected portions</u> of the original digital good" (emphasis added). As discussed with reference to claim 8, Yorke-Smith, however, appears to specifically require encryption of "each data segment" (see, e.g., col. 1, lines 51-52), rather than "selected portions" such as recited in part by claim 23. Sung also appears to require encryption "on each particular set" (see, e.g., col. 3, lines 5-7). Both Yorke-Smith and Sung fail to even contemplate application of protection to "selected portions" of data or instructions. Accordingly, claim 23 is in condition for allowance. Also, claims 24-26 which depend from claim 23 are allowable for at least similar reasons, as well as the additional recitations they contain.

LEE & HAYES, PLLC
RESPONSE TO OFFICE ACTION DATED DECEMBER 23, 2003

16

ATTORNEY DOCKET NO. MS1-515US
Serial No. 09/536,033

PAGE 17/20 * RCVD AT 3/23/2004 6:29:27 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:3035390271 * DURATION (mm-ss):04-58